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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,475	12/18/2000	Larry J. Eshelman	US000349***	4032
24737	7590	11/15/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			MAHMOUDI, HASSAN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/739,475	ESHELMAN ET AL.	
	Examiner	Art Unit	
	Tony Mahmoudi	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 and 11-13 is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Request for Continued Examination (RCE) submission filed on 26-September-2005 has been entered. In addition, the "After Final" amendment filed on 15-August-2005 has been entered for the continued examination of this application.

### ***Remarks***

2. In response to the amendment filed on 15-August-2005, claims 6-7 are amended per applicant's request. Claims 1-18 are presently pending in the application, of which claims 1, 6-7, 10, 14 and 17-18 are in independent form.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the fourth paragraph of 35 U.S.C. 112 (see MPEP 2164.08 [R-2]):

a claim in a dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers, and requires the dependent claim to further limit the subject matter claimed.

4. Claim 2 is rejected under 35 U.S.C. 112, fourth paragraph for not further limiting the subject matter of the claim from which it depends.

Claim 2 states, “a method as in claim 1, wherein said at least one of data resulting from said step of classifying and data resulting from said step of accepting includes data resulting from said step of classifying and data resulting from said step of accepting”, which simply states that “data” includes “data”. This recitation fails to further limit the subject matter of its base claim (claim 1). The applicant is required to either cancel dependent claim 2 or amend it to further limit the subject matter of claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1-4, 10, and 14-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalfe (U.S. Publication No. 2001/0027446 A1.)

As to claim 1, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

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accepting user input responsive to the step of prompting (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24);

adding a record to a database defining the historical record including at least one of data resulting from the step of classifying and data resulting from the step of accepting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach:

classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application; and

prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user.

Metcalfe teaches an electronic system for regulating activities (see Abstract), in which he teaches:

classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application (see figure 2 and see paragraphs 35 and 38-39); and

prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user (see paragraph 39, 41 and 82.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalfe, because including classifying at least one of audio, video, and text input to a computer and

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generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application, would enable the system to incorporate multimedia entries to the user's records, and prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user, would enable the user to enter information where the system would maintain the information in a user's historical log.

As to claim 2, Blandford as modified, teaches wherein the at least one of data resulting from the step of classifying and data resulting from the step of accepting includes data resulting from the step of classifying and data resulting from the step of accepting (this claim is simply stating that "data" includes "data" and does not further limit the subject matter of claim 1. The applicant is directed to the rejection of this claim under 35 U.S.C 112, fourth paragraph, in sections 3-4 of this Office Action.)

As to claim 3, Blandford as modified, teaches wherein the event includes writing an email letter (see Metcalfe, paragraphs 74 and 82.)

As to claim 4, Blandford as modified, teaches wherein the event includes writing a letter on a text application other than the calendar/diary application (see Blandford, figures 1 and 8, and see column 11, lines 56, where "word processor" is taught, also see Metcalfe, paragraphs 74 and 82.)

As to claim 10, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

detecting one of a passage of time since an entry of a record into a diary database and a time of day (see column 3, lines 8-11, see column 4, lines 17-20, and see column 6, lines 54-60);

accepting data to form a new record in a diary (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24); and

adding a new record responsive to a result of the step of accepting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach prompting a user to enter a diary entry responsively to the step of detecting.

Metcalf prompting a user to enter a diary entry responsively to the step of detecting (see paragraph 39 and 41.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalf, because including prompting a user to enter a diary entry responsively to the step of detecting, would enable the user to enter information relating to the diary record relative to the time or times when the transaction is to be performed, as taught by Metcalf (see paragraph 39.)

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As to claim 14, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

extracting current events or historical data from an external data resource (see column 4, lines 65-67, and see column 14, lines 49-60);

adding data resulting from the step of extracting to data resulting from the step of accepting to the diary database (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database.

Metcalf teaches accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database (see paragraphs 39-40 and 55.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalf, because including accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database, would enable the user to enter information relating to an event or an appointment, based on the actual time the event/appointment is to take place, as taught by Metcalf (see paragraph 39.)

As to claim 15, Blandford as modified, teaches wherein the step of adding includes accepting user input data indicative of instructions to modify the current events or historical data (see Blandford, Abstract, and see column 4, lines 17-35, and see column 10, line 57 though column 11, line 18, also see Metcalf, paragraphs 57 and 82.)



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As to claim 16, Blandford as modified, teaches wherein the step of adding includes correlating a date corresponding to the current events or historical data with a date diary data entered in the diary database (see Blandford, column 3, lines 8-11, see column 4, lines 17-20, and see column 6, lines 54-60.)

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalf (U.S. Publication No. 2001/0027446 A1), as applied to claims 1-4, 10, and 14-16 above, and further in view of Hayes-Roth (U.S. Publication No. 2002/0005865.)

As to claim 5, Blandford as modified does not teach wherein the event includes a change in a mood of the user.

Hayes-Roth teaches authoring contents for interactive agents (see Abstract), in which he teaches wherein the event includes a change in a mood of the user (see paragraphs 86 and 386, and see claim 23.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford as modified, by the teaching of Hayes-Roth, because having the event including a change in a mood of the user would enable the system to take into consideration the user's state-of mind (mood), and be able to target events, articles, items to for presenting to the user according to the user's present mood. An advanced use of the Mood System might be to model the user's mood based on the words they use and then customize the interaction based on what you perceive is the user's state of mind, as taught by Hayes-Roth (see paragraph 86.)

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalfe (U.S. Publication No. 2001/0027446 A1), and further in view of Berenson et al (U.S. Publication No. 2001/0049617.)

As to claim 6, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

accepting data towards the making of a new record in a calendar application (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24); and generating a diary record responsive to a result of the steps of accepting and prompting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach prompting a user for greater detail in an event defined by the record other than a time of occurrence.

Metcalfe teaches prompting a user for greater detail in an event defined by the record other than a time of occurrence (see paragraph 25, where “prompting the user for greater detail from the user other than the time of occurrence”, is read on “prompting a user for and receiving from the user who/what information relating to the activity, why/how information relating to the activity, and where/when information relating to the activity”, and see “secondary interfaces may prompt the user to correct or supplement information if information that is not in a proper format is input, or if one or more required fields are skipped”, and “user is prompted to indicate the subject, in the who/what field 201 of FIG. 2, of the activity, as indicated by block 315”, in paragraph 35.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalf, because including prompting a user for greater detail in an event defined by the record other than the time of occurrence, would enable the user to enter additional information relating to the diary record, such as “who/what information relating to the activity, why/how information relating to the activity”, in order to complete and/or gather historical information regarding a diary record, as taught by Metcalf (See paragraph 25.)

Blandford as modified, still does not teach automatically generating a diary record.

Berenson et al teaches a web-driven calendar updating system (see Abstract), in which he teaches automatically generating a diary record (see Abstract, and see paragraph 19.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford as modified, by the teaching of Berenson et al, because automatically generating a diary record would enable the system to use data/information entered by a user and generate and/or update an entry in the calendar/diary system based on the user provided information.

9. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Hayes-Roth (U.S. Publication No. 2002/0005865.)

As to claim 17, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

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accepting user input data descriptive of personal events to be recorded in a diary database (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24.)

Blandford does not teach:

sensing and classifying states, events, or moods of a user or the user's environment;

generating an index responsive to the step of sensing; and

adding the index and the user input to the diary database.

Hayes-Roth teaches authoring contents for interactive agents (see Abstract), in which he teaches:

sensing and classifying states, events, or moods of a user or the user's environment (see Abstract, and see paragraphs 39, 46-51, 84, 86, and 385.)

generating an index responsive to the step of sensing (see paragraph 65, and see figure 1);

adding the index and the user input to the diary database (see paragraph 389, and see figures 6-7.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teachings of Hayes-Roth, because including sensing and classifying states, events, or moods of a user or the user's environment; generating an index responsive to the step of sensing; and adding the index and the user input to the diary database, would enable the system to incorporate indicators of the user's mood changes, as well as other event/state variables with the diary records, so that the agent can retrieve contents based on the values of the state variables and user mood/behavior, as taught by Hayes-Roth (see paragraph 389.)

As to claim 18, Blandford teaches a data medium having instructions thereon for implementing a method for generating a diary record (see column 17, line 66 through column 18, line 14, and see column 18, lines 41-64.)

For the remaining steps of this claim, applicant is directed to the remarks and discussions made in claim 17 above.

*Allowable Subject Matter*

10. Claim 7-9 and 11-13 are allowed over the prior art made of record.

11. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record, Blandford (U.S. Patent No. 6,470,449), Berk et al (U.S. Publication No. 2002/0049783), Berenson et al (U.S. Publication No. 2002/0049617), Hayes-Roth (U.S. Publication No. 2002/0005865), and Metcalf (U.S. Publication No. 2001/0027446 A1) do not disclose, teach, or suggest the claimed limitations of (in combination with all other features in the claim):

wherein the step of automatically generating includes:

correlating selected user input from the step of accepting with data in an external data store; and

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generating a detailed description of a portion of the data accepted in the step of accepting responsively to the step of correlating whereby additional data from the external data is used to clarify the data accepted in the step of accepting, as claimed in independent claim 7.

Claims 8-9 and 11-13 are allowed over the prior art made of record as dependents of the allowed independent claim 7.

### ***Response to Arguments***

12. Applicant's arguments presented in the reply to previous office action filed on 15-August-2005, with respect to the rejected claims in view of the cited references have been fully considered but they not deemed persuasive:

In response to the applicant's arguments regarding the "motivation" to combine the cited prior art references, and specifically to the arguments of, "yet where is this desirability suggested from either of Blandford or Metcalfe", the arguments have been fully considered but are not deemed persuasive. The examiner recognizes that motivation can be established is some teaching or suggestions found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case some of the motivations, as outlined in the Office Action, are based on the knowledge generally available to one of ordinary skill in the

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art. In the case of Metcalfe's teaching of "prompting the user to enter information other than the time of occurrence", the motivation is cited from the Metcalfe reference.

In response to the applicant's amendment made to claim 6, adding the recitation of "other than the time of occurrence", the examiner has cited additional paragraphs from the Metcalfe reference, satisfying the newly added claim limitation made to claim 6 (see claim 6 above.)

In response to the applicant's arguments that, "the examiner has used impermissible hindsight to reject claims 1-15 under 35 U.S.C. § 103(a)", the arguments have been fully considered but are not deemed persuasive. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

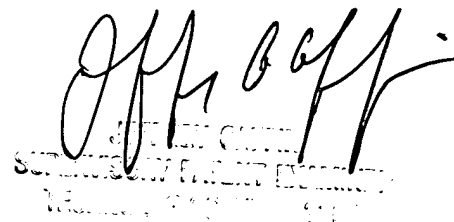
13. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (571) 272-4078. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

tm

November 8, 2005

A handwritten signature, likely of Jeffrey Gaffin, is written in black ink. Below the signature is a faint, rectangular official stamp. The stamp contains the text "SUPERVISOR" and "UNIT 2165" in a grid-like format, with some other illegible text.